

TRANSITION PLAN

For Complying with the CMS Home- and Community-Based Services Medicaid Rule

FOR THE STATE OF WISCONSIN

The approved transition plan for the State of Wisconsin can be found here:

<https://www.medicaid.gov/sites/default/files/2023-09/wi-transition-plan-hcbs.pdf>

The approved corrective action plan for the State of Wisconsin can be found here:

<https://www.medicaid.gov/sites/default/files/2023-09/wi-appvd-cap.pdf>

SITE-SPECIFIC ASSESSMENTS

The Centers for Medicare & Medicaid Services (CMS) required states to conduct validated, site-specific assessments of all provider-owned or controlled settings.

Types of Settings/ Residents and Funding Authorities	<p>The Department of Health Services and State Medicaid Agency (SMA) developed the statewide transition plan. The waivers included include the Children’s Long-Term Support (CLTS) Waiver program, the IRIS (Include, Respect, I Self-Direct) self-directed program, the Family Care program and the Family Care Partnership program.</p> <p>Residential settings:</p> <ul style="list-style-type: none">• Community-based residential facilities (CBRF)• Licensed 3-4 bed adult family homes• Certified adult family homes, including 1-2 bed homes and homes certified under Wis. Admin. Code ch. DHS 82• Residential care apartment complexes (RCAC)• Foster homes for children (CLTS only)• Level 5 exceptional treatment foster homes (CLTS only) <p>Nonresidential settings:</p> <ul style="list-style-type: none">• Adult day care centers• Children’s long term support day services settings (CLTS only)• Day habilitation service settings (adult day services)• Prevocational service settings (center-based sites where individuals receive pre-vocational services intended to enable progression to integrated employment)• Group-supported employment settings (enclaves/work crews)
Compliant/Non-Compliant	<p>Settings found to be fully compliant/ expected to meet criteria of HCBS Settings rule:</p> <ul style="list-style-type: none">• Residential: 918<ul style="list-style-type: none">○ 1-2 bed AFH: 241○ 3-4 bed AFH: 233○ CBRF: 295

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	<ul style="list-style-type: none">○ RCAC: 140○ Level 5 Foster Care: 9● Non-Residential: 59<ul style="list-style-type: none">○ ADC: 0○ ADS: 7○ PREVOC: 6○ CLTS: 0○ GSE: 46● Total: 2,578 residential + 59 non-residential= 2,637 <p>Settings that met criteria/expected to meet criteria upon completion of remediation:</p> <ul style="list-style-type: none">● Residential:<ul style="list-style-type: none">○ 1-2 bed AFH: 677○ 3-4 bed AFH: 1,002○ CBRF: 699○ RCAC: 17● Non-residential: 314<ul style="list-style-type: none">○ ADC: 82○ ADS: 156○ PREVOC: 75○ CLTS: 1○ GSE: 0● Total: 2,395 residential + 314 nonresidential= 2,709 <p>Settings that did not meet criteria/ expected to not meet criteria (did not/will not remediate during validation period):</p> <ul style="list-style-type: none">● Residential:<ul style="list-style-type: none">○ 1-2 AFH: 148○ 3-4 AFH: 41○ CBRF: 47○ RCAC: 2● Non-Residential: 0● Total: 238 residential + 0 non-residential = 238 <p>Settings presumed institutional:</p> <ul style="list-style-type: none">● Residential:<ul style="list-style-type: none">○ CBRF: 20○ RCAC: 7● Non-Residential: 0● Total: 27 residential* + 0 non-residential: 27
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	<p>*Additional settings were later identified by the SMA and are included in the heightened scrutiny number below.</p> <p>NOTE: Wisconsin received approval of its corrective action plan (CAP) on September 12, 2023. The CAP provides updated timeframes for completion of site-specific assessments and the heightened scrutiny review process. Therefore, setting classifications in the STP may be out of date. The updated CAP sets July 31, 2024, as the completion date for settings to remediate non-compliance on settings criteria subject to the CMS approved CAP. According to the CAP, June 30, 2024, is the completion date to submit the list of settings identified by settings type and category of institutional presumption to CMS. Final compliance statewide with HCBS settings rule will take place the later of December 31, 2024 or 3 months after the date CMS issues heightened scrutiny findings to the state.</p>
Reasons for Non-Compliance	The document does not explicitly state the specific reasons for non-compliance.
Transition plans	An assessment of the regulatory and policy framework for both residential and nonresidential settings, and identification and implementation of systemic remediation activities. A provider self-assessment was distributed to determine areas of compliance/non-compliance and identify ways to improve the overall quality of service delivery. The SMA reviewed and validated the provider self-assessment responses through site visits and examination of documents. For any providers found not fully compliant, specific remediation actions were identified and time to complete such actions were given. Any settings presumed to have institutional quality went through a heightened scrutiny review. If a provider could not or would not comply, the state worked with waiver agencies to transition participants to compliant settings. Moving forward, the state will continue to engage in ongoing monitoring and quality assurance activities.

SETTINGS PRESUMED INSTITUTIONAL

CMS presumes some settings have qualities that are institutional or isolating in nature. These settings must go through a heightened scrutiny review by CMS.

CMS presumes the following types of settings have institutional or isolating qualities:

- *Category 1: Located in a hospital, nursing facility, or other institutional setting.*
- *Category 2: Located adjacent to a public hospital, nursing facility, or other institutional setting.*
- *Category 3: Have the effect of isolating people from the broader community.*

% Presumed Institutional (No. of Residents Affected)	48 residential settings serving waiver participants were identified as meeting either Category 1 or Category 2 criteria.
Type of Setting/Residents	<p>Presumed institutional based on Category 1:</p> <ul style="list-style-type: none"> • CBRF: 33 • RCAC: 8 <p>Presumed institutional based on Category 2:</p> <ul style="list-style-type: none"> • 3-4 bed AFH: 2

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	<ul style="list-style-type: none"> • CBRF: 4 • RCAC: 1
Reason for Presumption	Beyond categorizing the settings into Category 1 or 2, no more specific reason for presumption was stated.
Heightened Scrutiny Process	The SMA provided each residential setting with a written notice of need for heightened scrutiny review. Instructions for submitting evidentiary materials were also provided, as well as an evidentiary document checklist and information on the federal heightened scrutiny process. Only certain SMA reviewers were tasked with the heightened scrutiny reviews. In most cases, providers were able to work with the same heightened scrutiny reviewer throughout the entire process. The SMA developed an HCBS Heightened Scrutiny Reviewer Assessment and Evidentiary Summary form to ensure a consistent and logical review summary, as well as inter-reviewer reliability. The summaries were consistent in form and included compliance within state standards and regulations specific to the setting type (RCAC, CBRF, AFH, and nonresidential settings, as applicable). The format specified the compliance areas and criteria and allowed the reviewer to document all evidentiary information within the appropriate criteria. For instance, all evidentiary information obtained regarding how an individual was able to choose to receive services in the community was documented in the same area of the evidentiary summary. The verification of related documents such as policies, procedures, staff training, or resident handbook was included along with the onsite observations and/or public comments received regarding the same. Each evidentiary summary received a quality assurance review by the SMA's HCBS Implementation Coordinator to ensure that the review was complete, evidenced how the setting overcame an institutional presumption, and was ready to be posted for public comment.

NON-COMPLIANCE COMMUNICATION

% Cannot/Will Not Comply (No. of Residents Affected)	The SMA has currently identified 25 individuals that may need to transition to new living settings because their current setting has decided not to pursue compliance with the HCBS settings rule.
Type of Setting/Residents	
Reason for Determination	Not given.
Communication Strategy	Following the initial compliance review process, the SMA informed waiver agencies of the compliance designation, and provided them with a list of settings that had not met criteria prior to completion of the initial review process. The MCOs assisted the SMA with outreach to settings in their provider networks emphasizing the need to become compliant. These providers were advised to contact DQA to request an HCBS compliance review. The SMA notified waiver agencies of the need to begin the process of identifying new living arrangements for program participants living in settings that do not meet the criteria for compliance. The SMA worked with all waiver

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	<p>agencies to allow settings ample opportunity to come into compliance before any transitions occur. MCO care management staff will work with their members to identify options in compliant residential settings.</p>
<p>Assistance to Residents?</p>	<p>People who will be affected by the noncompliance of a provider are being issued written notice and ensured due process. The process is as follows:</p> <ul style="list-style-type: none"> • A minimum of 30 days in advance of a transition, the waiver agency will issue each participant or legal representative written notice, in language specified by the SMA, and including notice of the right to due process, that the person will need to transition due to noncompliance by the provider. • In IRIS, the SMA will issue each participant or legal representative written notice, including notice of the right to due process that the person will need to transition due to noncompliance of the provider. • The notice will be provided as soon as the waiver agency is aware that the setting has not successfully met the HCBS waiver requirements, or has chosen not to comply, to allow time for due process and the identification of a compliant setting that meets the needs and preferences of the participant. • At the same time, the MCOs will notify the provider in writing of the intent to transition a participant from the setting or the intent to discontinue waiver funding. • The SMA will notify IRIS providers in writing of the intent to discontinue waiver funding. The ICA will support IRIS participants in identifying available resources and compliant providers. • Waiver agencies will utilize the person-centered planning process to identify other compliant settings for affected individuals. Support and services coordinators interdisciplinary teams will work with each person affected and their families or guardians to identify a choice of compliant settings, including settings that are not disability specific. • IRIS consultant agencies will work with participants and guardians to assist in identifying compliant settings, including settings that are not disability specific. • MCOs and county agencies will meet all required person-centered care planning and care plan development processes and practices and provide all necessary supports to the person who will transition. • IRIS consultants will meet all required person-centered care planning and plan development processes and practices to assist the participant in this transition. • If a person chooses not to move, the waiver agency will help the person to understand the consequences of remaining in the noncompliant setting, including the loss of waiver eligibility. • The SMA will provide support to all waiver agencies as needed during this process.

ONGOING MONITORING

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<p>Monitoring Procedures</p>	<ul style="list-style-type: none"> • Build ongoing assessment into regulatory monitoring: <ul style="list-style-type: none"> ○ Licensed settings and settings that are certified by the state licensing authority (DQA) (CBRFs, 3-4 bed AFHs, RCACs, and adult day care providers) are subject to periodic compliance site visits (at least every 3 years for CBRFs, 3-4 bed AFHs, and RCACs and at least every 5 years for adult day care providers) by DQA. As part of these periodic licensing or certification reviews, DQA also reviews the setting for continued HCBS compliance. Settings found to have deficiencies in licensing or certification requirements are required to implement corrective actions and can lose their license or certification when noncompliance continues or is egregious. ○ For all other settings, the certification entities are required to review compliance with the state standards for any setting that intends to serve HCBS waiver participants. These settings must be recertified on an annual basis. • Use of contracted staff under the direction and supervision of the SMA to oversee nonresidential settings that are not otherwise regulated. • Incorporate monitoring into person-centered planning and required waiver monitoring visits. When meeting with the participant, residential and nonresidential settings are observed to ensure health and safety and continuing compliance with the HCBS settings rule. This does not replace monitoring and compliance determination by the credentialing authority but provides an important supplemental check on compliance. • In addition to monitoring or compliance by waiver agencies, beneficiaries have several options to report provider non-compliance to the SMA. The Division of Quality Assurance has a complaint process in place for state licensed and certified providers. • Systems development to document compliance: The SMA expects to leverage new functionality in Wisconsin’s Medicaid Management Information System (MMIS) to store HCBS compliance status residential and nonresidential facility-based providers. The implementation of this functionality is anticipated to begin in 2024, with provider rollout concluding in 2025. Using data from the MMIS, the SMA will create, regularly update, and make provider directories available publicly which include an indicator of HCBS compliance status for applicable providers. • Build capacity to assure non-disability specific options for waiver program participants.
<p>Quality Assurance Measures</p>	<p>Quality Assurance monitoring methodologies will incorporate the addition of monitoring performance measures that ensure compliance with HCBS Settings Rule. Specific quality assurance information can be found in Wisconsin’s January 1 submission here.</p>